

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5078 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SOCIB MARITIME S.S

Versus

DY CONSERVATOR

Appearance:

MR BH CHHATRAPATI for Petitioner

MR SHAILESH BRAHMBHATT for respondents

CORAM : MR.JUSTICE R.BALIA.

Date of decision: 18/07/96

ORAL JUDGEMENT

The case in short of the petitioner is that the petitioner's vesse M. V. MARAKI was moored at port of Kandla. Due to prevailing weather conditions it had come in contact with the Port Trust Dredger, Kutch Vallalb, causing damage to it. As a result thereof, the Port Trust Authorities claimed a sum of Rs.15 Lakhs by way of damages in advance against the petitioner. Petitioner denied the claim. Matter is to be adjudicated before appropriate forum. However petitioner's grievance is

that during pendency of such dispute, the Port Trust is insisting upon the petitioner for payment of entire sum before vessel is permitted to leave the Port.

Having heard learned counsel for the parties, I am of the opinion that interest of justice would be served, if the petition is disposed of with a direction to the Port Trust for permitting the petitioner to move the vessel in question provided the petitioner deposits 50% of the amount claimed as damages, to be adjusted against final order that may be passed by the appropriate forum regarding the dispute and furnishes a Bank Guarantee from a Nationalised Bank in respect of the balance claimed. Ordered accordingly. Notice is discharged.

On complying with the aforesaid conditions, the vessel of the petitioner shall be permitted to leave the Port forthwith and will not be detained for want of depositing the disputed sum only. However it will not affect the authority of Port Trust, if its detention is required on any other ground.
